



Billing Code – 4910-9X

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

Interim Guidance on State Freight Plans and State Freight Advisory Committees

AGENCIES: Office of the Secretary of Transportation (OST), U.S. Department of Transportation (DOT), Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), Federal Motor Carriers Administration (FMCSA) Federal Railroad Administration (FRA), Maritime Administration (MARAD), Pipeline and Hazardous Materials Safety Administration (PHSMA), Research and Innovative Technology Administration (RITA), St. Lawrence Seaway Development Corporation (SLSDC).

ACTION: Notice of Interim Guidance and Request for Comments.

SUMMARY: On July 6, 2012, the President signed into law P.L. 112-141, the Moving Ahead for Progress in the 21st Century Act (MAP-21). Section 1118 of MAP-21 directs the Secretary of Transportation to encourage each State to develop a comprehensive State Freight Plan that outlines immediate and long-range plans for freight-related transportation investments. Section 1117 of MAP-21 directs the Secretary to encourage each State to establish a State Freight Advisory Committee. The Department of Transportation is issuing this Notice to provide Interim Guidance on both State Freight Plans and State Freight Advisory Committees. It encourages States to develop State

Freight Plans and provides guidance to States on the required elements of a State Freight Plan and information on funding and on the relationship of State Freight Plans to other provisions of MAP-21. It encourages States to develop State Freight Advisory Committees as part of the process for developing a State Freight Plan. The Department requests public comments on all aspects of this Interim Guidance.

DATES: All public comments must be received by November 15, 2012.

ADDRESSES: You may send comments identified by Docket Number DOT-OST-2012-0168 using any of the following methods:

Government-wide rulemaking web site: <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., Washington, DC 20590-0001. Fax 1-202-493-2251.

Courier: commercial delivery service, such as, but not limited to the following – Federal Express or United Parcel Service, addressed to Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., Washington DC 20590.

Hand Delivery: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., Washington, DC between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays.

The Department will post all comments received, without change, to

<http://www.regulations.gov>, including any personal information. If you mail or hand deliver your comments and want the Department to acknowledge receipt of your comments, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Docket: To read background documents or comments received, go to <http://www.regulations.gov> or to Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays.

Privacy Act: Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment if submitted on behalf of an association, a business, a labor union, etc.). You may review the Department's complete Privacy Act statement in the Federal Register published on April 11, 2000 (65 FR 19477-78), or you may visit <http://www.dot.gov/privacy.html>.

This Interim Guidance will also be posted on the Department's MAP-21 website (www.dot.gov/map21).

FOR FURTHER INFORMATION CONTACT:

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I. BACKGROUND AND PROGRAM PURPOSE

The purpose of this document is to provide guidance on the implementation of Section 1118 (State Freight Plans) and Section 1117 (State Freight Advisory Committees) of the Moving Ahead for Progress in the 21st Century Act (MAP-21). Section 1118 directs the Secretary of Transportation to encourage States to develop freight plans that are comprehensive and that include both immediate and long-term freight planning activities and investments. Section 1117 directs the Secretary to encourage each State to

establish a State Freight Advisory Committee consisting of a representative cross-section of public and private freight stakeholders. Section 1118 specifies certain minimum contents for State Freight Plans, and states that such a plan may be developed separate from or be incorporated into the statewide strategic long-range transportation plan required by section 135 of title 23, United States Code.

Section 1116 of MAP-21 (Prioritization of Projects to Improve Freight Movement) authorizes the Secretary to increase the Federal share payable for any project to 95 percent for projects on the Interstate System and 90 percent for any other project if the Secretary certifies that the project:

- Demonstrates the improvement made by the project to the efficient movement of freight (including making progress on freight performance measures established under MAP-21) and
- Is identified in a State Freight Plan developed pursuant to section 1118.

The Federal Highway Administration will be issuing separate guidance on the implementation of Section 1116. One purpose of this guidance is to inform States of the freight planning process they must undertake to qualify for the freight prioritization provisions of Section 1116.

II. POLICY

The U.S. Department of Transportation strongly encourages all States to develop State Freight Plans. The Department believes that freight transportation, because its effects are often regional or national in scope, and includes freight providers that own and operate private infrastructure, has often been more difficult for States to incorporate into their planning process than has passenger transportation, and that accordingly infrastructure investments and other State policy initiatives related to freight transportation have often received less funding and attention than passenger-related initiatives. Because freight transportation is critical to the economic vitality of the United States, renewed attention to safe and efficient freight transportation can have a positive effect on the economic growth of the United States.

State Freight Plans can identify freight transportation facilities that are critical to each State's economic growth and give appropriate priority to investments in such facilities. In doing so, such Plans can enhance economic growth at both the State and National level, thus enhancing the Nation's economic competitiveness. State Freight Plans can also help to guide investments and other policies that will help to achieve the Department's other strategic goals, including safety, state of good repair, livability, and environmental sustainability. State Freight Plans can also identify freight transportation facilities that are critical to export movements and, by directing resources toward improving those facilities, assist the United States in meeting the goals of the President's National Export Initiative.

The State Freight Plan may be developed separate from or incorporated into the statewide strategic long-range transportation plan required by section 135 of title 23, United States Code. If the State Freight Plan is separate from the statewide strategic long-range transportation plan, each plan should show how the findings of the State Freight Plan are incorporated into the statewide strategic long-range transportation plan. If the two plans are combined, the statewide strategic long-range transportation plan should include a separate section focused on freight transportation, and must include the elements specified in section 1118. Other State transportation plans, such as State Rail Plans, are required by statute to be coordinated with section 135 of title 23, and as a consequence the freight component of those plans should be incorporated into the State Freight Plan to ensure a comprehensive and system-wide planning approach.

The Department also strongly encourages all States to establish State Freight Advisory Committees. Such Advisory Committees are an important part of the process needed to develop a thorough State Freight Plan. Bringing together the perspectives and knowledge of public and private partners, including shippers, carriers, and infrastructure owners and operators, is important to developing a quality State Freight Plan.

The Department will be developing a multimodal National Freight Strategic Plan in accordance with the requirements of Section 1115 of MAP-21, and intends to rely significantly on the freight plans prepared by the States.

III. FUNDING

Authorization level under MAP-21: There is no formula or discretionary funding specifically associated with State Freight Plans or State Freight Advisory Committees.

States may use funding allocated under the Surface Transportation Program (23 U.S.C. 133) for developing State Freight Plans, as well as funding under the State Planning and Research Program (23 U.S.C. 505). They may also use carryover balances from National Highway System funds authorized under SAFETEA-LU (23 U.S.C. 103(b)(6)(E) as in effect on the day before enactment of MAP-21) that can be used for transportation planning in accordance with 23 U.S.C. sections 134 and 135 (23 U.S.C. 103 was amended by MAP-21 section 1104, which eliminated the National Highway System Program under section 103, and hence eliminated the funding for planning under section 103 as amended).

IV. CONTENTS OF STATE FREIGHT PLANS

Section 1118 of MAP-21 requires that a State Freight Plan developed pursuant to Section 1118 include, at a minimum, the following elements:

- An identification of significant freight system trends, needs, and issues with respect to the State;
- A description of the freight policies, strategies, and performance measures that will guide the freight-related transportation investment decisions of the State;

- A description of how the plan will improve the ability of the State to meet the national freight goals established under section 167 of title 23, United States Code;
- Evidence of consideration of innovative technologies and operational strategies, including intelligent transportation systems, that improve the safety and efficiency of freight movement;
- In the case of routes on which travel by heavy vehicles (including mining, agricultural, energy cargo or equipment, and timber vehicles) is projected to substantially deteriorate the condition of roadways, a description of improvements that may be required to reduce or impede the deterioration; and
- An inventory of facilities with freight mobility issues, such as truck bottlenecks, within the State, and a description of the strategies the State is employing to address those freight mobility issues.

In addition to these minimum elements required by section 1118, the Department has provided additional recommended elements based on what States have found useful to include in freight plans that have already been prepared, as well as on consistency with the requirements for the National Freight Strategic Plan, found in 23 U.S.C 167(f).

State Freight Plans may be organized in any structure that works best for individual States, as long as they cover the required elements; however, in order to aid States in addressing the required criteria, and to facilitate the incorporation of analysis from the State Freight Plans into the National Freight Strategic Plan, as well as to aid in

conceptualizing the detailed issues surrounding robust freight planning, DOT is suggesting the following structure as a recommended model for states to follow.

1. Strategic Goals

As specified in section 1118, a State Freight Plan must include a description of how the plan will improve the ability of the State to meet the national freight goals established under 23 U.S.C. 167. The following is a summary of the goals of the National Freight Policy established in 23 U.S.C. 167:

- Improving the contribution of the freight transportation system to economic efficiency, productivity, and competitiveness
- Reducing congestion on the freight transportation system
- Improving the safety, security, and resilience of the freight transportation system
- Improving the state of good repair of the freight transportation system
- Using advanced technology, performance management, innovation, competition, and accountability in operating and maintaining the freight transportation system
- Reducing adverse environmental and community impacts of the freight transportation system

The Department recommends that each State Freight Plan also include a discussion of the State's strategic goals for freight transportation. These goals would include the goals of the National Freight Policy summarized above, but States may also add other

strategic goals. The Department recommends that State Freight Plans indicate which goals are most important to the State.

2. The Economic Context of Freight Transportation Planning

The Department recommends that each State Freight Plan include a discussion of the role that freight transportation plays in the State's overall economy. This section would identify what industries are most important to the State, and what supply chains (including the transportation modes that support them) are critical to the State's industries. In particular, it would indicate what supply chains involving the State are important to exports, whether the exports of that State or of other States.

3. Freight Policies, Strategies, and Institutions

As specified in section 1118, a State Freight Plan must include a discussion of the State's freight policies and strategies that will guide the freight-related transportation investment decisions of the State. The Department recommends that this section also discuss how these freight policies and strategies will guide not just freight-related transportation investment decisions of the State, but also the broader freight improvement strategy of the State, including operational strategies and policy changes.

The Department recommends that this discussion also:

- Include the State's grant and loan programs that are available to pay for freight-related transportation infrastructure;

- Identify the State's freight-related institutions, including transportation-related infrastructure owners and regulatory authorities, such as the State DOT, port authorities, toll roads, and bridge and tunnel authorities;
- Explain the governance structures and funding mechanisms for such authorities (e.g., whether the authorities are controlled by the governor or are independent, and whether the authority has a dedicated source of revenue);
- Identify private transportation infrastructure owners, such as railroads, terminals, pipelines, and freight transfer facilities;
- Identify statutory and constitutional constraints on freight-related investments and policies, such as prohibitions on spending State funds for certain kinds of freight infrastructure;
- Discuss regional freight planning activities in which the State participates, such as planning for key multi-state freight corridors, multi-state metropolitan areas, or for other regional groups of States; and
- Set out the State's priorities in freight transportation infrastructure development.

4. State Freight Transportation Assets

As specified in section 1118, a State Freight Plan must include an inventory of facilities with freight mobility issues. The Department recommends that this inventory also include a complete inventory of the State's freight transportation assets. This would include a description of the State's transportation infrastructure in all freight-carrying modes, the warehousing and intermodal facilities located in the State, and the freight

gateways and corridors that are located in or that pass through the State. MAP-21 places particular emphasis on transportation infrastructure that is used to serve areas of the State that are significant for energy development, mining, agriculture, and timber production, and the Department recommends that the State Freight Plan inventory note particularly routes that are used to move equipment for these productive activities into those areas and for moving the output of those productive activities out of those areas.

5. The Conditions and Performance of the State's Freight Transportation System

As specified in section 1118, a State Freight Plan must include the performance measures that will guide the freight-related transportation investment decisions of the State. The Department recommends that this discussion also include an analysis of the conditions and performance of the State's freight transportation system. This analysis would include the identification of bottlenecks in the freight transportation system that cause delays and unreliability in freight movements, as well as other specific locations that are in a poor state of good repair, create safety hazards, or create other performance problems. The National Freight Strategic Plan also is required to include an analysis of the conditions and performance of the national freight system, and when those measures of freight conditions and performance are established, the Department recommends that State Freight Plans include those measures. Until those measures are established, however, the Department recommends that States use the measures of condition and performance that they consider to be most reasonable and appropriate. In general, the Department recommends that measures of conditions and performance

reflect the State's freight transportation goals – for each goal, there would be at least one measure of condition or performance that indicates how well the freight transportation system is doing in achieving that goal.

The Department recommends that States use measures of conditions of transportation infrastructure that reflect the quality of service that this infrastructure provides to users of that infrastructure and to the general public. Similarly, measures of the performance of the freight transportation system would reflect the quality of freight service provided to freight shippers and the impact of the freight transportation system on the general public. Measures of conditions and performance would reflect outcomes that are directly important to the system's users and to the general public (for example, reductions in crashes, fatalities, and injuries; reduced delay and congestion; and reduced vehicle operating costs); The Department recommends that States try to avoid using measures that are not of direct importance to users and the general public (for example, miles of track or number of bridges inspected each year).

6. Freight Forecast

Consistent with one of the required elements of the National Freight Strategic Plan, which must be developed in consultation with the States, the Department recommends that State Freight Plans include a 20-year forecast of freight transportation demands, broken down by mode of transportation and commodity classification, and showing demands for transportation of freight coming into the State, outbound from the State,

passing through the State between outside origin and destination points, and moving intrastate between origin and destination points within the State. The freight forecast could draw upon the forecast prepared by the Federal Highway Administration's (FHWA) Office of Freight Management and Operations and on the Federal Aviation Administration's national and airport-level forecasts of air cargo. The FHWA forecast includes projected tonnage for each mode—truck, rail, air (air and truck), water, and pipeline.

7. Overview of Trends, Needs, and Issues

As specified in section 1118, a State Freight Plan must identify significant freight system trends, needs, and issues with respect to the State. The Department recommends that this discussion also include how emerging trends make those needs and issues of greater significance, or how these trends affect how those needs and issues can be addressed.

8. Strengths and Problems of the State's Freight Transportation System

The Department recommends that a State Freight Plan include an analysis of the strengths of the State's freight system that it wishes to preserve and the problems that it wishes to solve. This analysis would show what the strengths of the State's freight system are that the State wishes to build upon; it would also show in what respects the State's freight system does not meet the State's goals, and indicate which problems are

most important for the State to address. Some of these might include problems that the State expects to develop in the future as a result of increasing demand for freight transportation or other trends that the State is anticipating.

9. The State's Decision-Making Process

The Department recommends that a State Freight Plan include a discussion of the State's decision-making process on freight transportation improvements, including how the State conducted outreach to stakeholders and the public and how the State prioritized the various strategies, projects, and policy changes it considered. This discussion would show how the State coordinated improvements to different modes of transportation in order to achieve its goals in the most cost-effective way. It would also discuss ways in which the State coordinated with other States in regional freight planning efforts, and with metropolitan areas within the State that have done freight planning.

The Department encourages States to conduct economic analysis as part of the State Freight Plan, including analyses of benefits and costs of various improvements that they are considering. If economic analysis has been conducted, the results of that analysis should be reported in this portion of the State Freight Plan. The discussion would show how the State compared alternative approaches to achieving the same goal. As specified in section 1118, the discussion must also show evidence of consideration of operational strategies (such as congestion pricing) or innovative technologies (such as

use of intelligent transportation systems (ITS)) that improve the safety and efficiency of freight movement. If an economic analysis is provided, it would be particularly useful to estimate benefits and costs of each alternative considered.

10. The State's Freight Improvement Strategy

As specified in section 1118, a State Freight Plan must include a description of the strategies the State is employing to address freight mobility issues. The Department recommends that this description also include a presentation of the State's complete freight improvement strategy, with different improvements ranked in order of priority (or grouped into higher and lower priority groups). This presentation of the State's freight improvement strategy would include an analysis of how each improvement will advance the State's strategic goals, relating to:

- Capital investments;
- Operational improvements, such as congestion pricing and travel demand management;
- Policy changes, including performance management, competition, and accountability initiatives; and
- Expanded use of ITS and other innovative technologies.

The strategy would also include:

- An analysis of how proposed improvements will affect specific supply chains and industries that have been identified as important to the State in Section 2;

- Because MAP-21 places particular emphasis on infrastructure that is used for transporting mining, agricultural, energy, and timber equipment and products, a discussion of how those freight transportation routes would be affected (and in particular how the strategy would impede the deterioration in the condition of infrastructure on those routes);
- An analysis of the improvements in outcomes that are expected to result from the proposed freight improvements;
- A discussion of how the freight plan relates to other transportation plans, such as a state rail plan, a long-range statewide transportation plan, or a metropolitan area freight plan; and

A discussion of how the State's Freight Improvement Strategy coordinates with plans of other adjacent States, including groups of States that work together to plan for freight transportation along key multi-state freight corridors, in multi-state metropolitan areas, or through other regional groupings.

11. Implementation Plan

Finally, the Department recommends that a State Freight Plan include a comprehensive implementation plan, showing both short-term and long-term strategies, and including an approximate time schedule for each proposed freight improvement. This implementation plan would include an analysis of which capital improvements have the potential to generate a revenue stream, and hence which projects have the potential to be funded with loans (repaid from the revenue stream) rather than solely through grants

or general funds. The Plan would include a funding plan, showing how each project will be funded, including those funded by grants, loans, and public-private partnerships. The Plan would discuss the State's proposed partnerships with private infrastructure owners, such as railroads, terminal operators, and pipeline companies. Finally, the Plan would discuss how the State proposes to work with adjacent States on projects that cross State lines, or on freight corridors that cross State lines (even if the project itself is all in one State).

V. THE STATE FREIGHT PLANNING PROCESS

The Department recommends that States use a collaborative process for freight planning that involves all of the relevant stakeholders affected by the freight transportation system. These stakeholders would include owners of freight transportation infrastructure (both public and private); carriers operating on publicly-owned freight infrastructure; shippers and freight forwarders; representatives of employees of these stakeholders; State, local, and tribal governments; and the general public. Stakeholders might be domiciled both inside the State and outside of the State.

States are strongly encouraged to establish State Freight Advisory Committees to facilitate this collaborative process. As specified in section 1117 of MAP-21, State Freight Advisory Committees should include representatives of a cross-section of public and private sector experts and stakeholders. These might include representatives of:

- The transportation department of the State;
- Metropolitan planning organizations, councils of government, regional councils, and other regional and planning organizations;
- Local and tribal governments;
- Independent transportation authorities, such as seaport and airport authorities, toll highway authorities, and bridge and tunnel authorities;
- Private infrastructure owners, such as railroads and pipelines;
- Carriers, including carriers operating on their own infrastructure and carriers operating on publicly-owned infrastructure;
- Shippers and freight forwarders;
- Freight-related associations;
- Organizations representing the freight industry workforce;
- Environmental, safety, and community organizations; and
- Independent transportation experts, including academic specialists and consultants.

State Freight Advisory Committees should be charged with

- Advising the State on freight-related priorities, issues, projects, and funding needs;
- Serving as a forum for discussion of State decisions affecting freight transportation;
- Communicating and coordinating regional priorities with other organizations;

- Promoting the sharing of information between the private and public sectors on freight issues; and
- Participating in the development of the State's Freight Plan.

VI. DATA AND ANALYTICAL RESOURCES FOR STATE FREIGHT PLANNING

The modal administrations of the U.S. Department of Transportation and other departments in the U.S. Government can provide a wide range of data and analysis to assist States in the freight planning process. The following is a series of links to internet websites that provide useful data and analysis resources:

General Data and Analysis Sources on Freight

Commodity Flow Survey:

http://www.bts.gov/publications/commodity_flow_survey/

Data Sources Related to Freight Transportation:

http://www.ops.fhwa.dot.gov/freight/freight_analysis/data_sources/index.htm

Freight Analysis Framework:

http://www.ops.fhwa.dot.gov/freight/freight_analysis/faf/index.htm

Freight Performance Measures:

http://www.ops.fhwa.dot.gov/freight/freight_analysis/travel_time.htm

Quick Response Freight Manual:

<http://www.ops.fhwa.dot.gov/freight/publications/qrfm2/index.htm>

Maritime Statistics:

USA Trade Online (The Official Source for U.S. Merchandise Trade Data), U.S. Census

Bureau: <https://www.usatradeonline.gov/>

Navigation Data Center, Waterborne Commerce Statistics Center, U.S. Army Corps of

Engineers: <http://www.ndc.iwr.usace.army.mil/wcsc/wcsc.htm>

Navigation Data Center, Vessel Entrances and Clearances, U.S. Army Corps of

Engineers: <http://www.ndc.iwr.usace.army.mil/data/dataclen.htm>

Maritime Statistics, U.S. Maritime Administration:

[http://www.marad.dot.gov/library_landing_page/data_and_statistics/Data_and_Statistics
.htm](http://www.marad.dot.gov/library_landing_page/data_and_statistics/Data_and_Statistics.htm)

Marview Statistics, U.S. Maritime Administration: www.marview.gov/

Rail Freight Resources and Statistics

The Preliminary National Rail Plan:

<http://www.fra.dot.gov/Downloads/RailPlanPrelim10-15.pdf>

The National Rail Plan Progress Report:

http://www.fra.dot.gov/downloads/NRP_Sept2010_WEB.pdf

The Proposed State Rail Plan Guidance:

http://www.fra.dot.gov/rpd/passenger/fp_Proposed_State_Rail_Plan_Guidance.shtml

Comparative Evaluation of Rail and Truck Fuel Efficiency on Competitive Corridors:

http://www.fra.dot.gov/Downloads/Comparative_Evaluation_Rail_Truck_Fuel_Efficiency.pdf

Discussion of the confidential Carload Waybill Sample and State access:

http://www.stb.dot.gov/stb/industry/econ_waybill.html

National Transportation Atlas Database includes FRA rail network:

http://www.bts.gov/publications/national_transportation_atlas_database/

Online highway rail grade crossing investment analysis tool:

<http://gradedec.fra.dot.gov/>

Interactive mapping application that allows users to view aspects of railroad infrastructure:

<http://fragis.frasafety.net/GISFRASafety/default.aspx>

Air Freight Statistics

FAA Air Cargo forecasts:

http://www.faa.gov/about/office_org/headquarters_offices/apl/aviation_forecasts/aerospace_forecasts/2012-2032/

Click on “Forecast Tables, US Commercial and Foreign Flag Carriers, Tables 5-23.”

Cargo forecasts are Tables 19 and 20.

VII. Request for Comments

DOT invites interested parties to submit comments on any aspect of the Department's implementation of MAP-21 requirements for State Freight Plans or State Freight Advisory Committees. The Department will consider these comments as it continues to implement the freight provisions of the law. The instructions for submitting comments can be found in the Addresses section above. Late-filed comments will be considered to the extent practicable.

Issued in Washington, DC, on October 5, 2012.

Ray LaHood,

Secretary.